

REMARKS/ARGUMENTS

The present communication is responsive to the Official Action mailed December 28, 2006. Entry of the foregoing and reexamination and reconsideration of the above-captioned application pursuant to and consistent with 37 C.F.R. § 1.112 and in light of the foregoing amendments and remarks that follow is respectfully requested. In addition, the undersigned would like to thank the Examiner for the courtesy he extended during a telephone conversation which occurred on the afternoon of February 5, 2007 between the Examiner and another attorney from this office.

Currently, claims 22-55 stand rejected. Claims 22-36, 39-41, and claims 47-55 have been cancelled. In addition, claims 37-38 have been amended to specify four of the compounds which are specifically identified in the specification. Therefore, claims 37-46 are now under examination. No new matter has been added by way of these amendments to the claims.

35 U.S.C. § 112 ¶1

Claims 22-38 and claims 39-55 have been rejected under 35 U.S.C. § 112 ¶1 for allegedly failing to comply with the enablement requirement. Applicant respectfully traverses.

During an interview with the Examiner, Applicant's representative discussed the prospect of cancelling the composition claims without prejudice and amending the method claims to reflect four specific compounds, all of which are expressly recited in the specification. The Examiner stated that he would be favorably disposed toward such an amendment. It is Applicant's position that the claimed uses of these specific compounds is enabled, novel and unobvious.

35 U.S.C. § 112 ¶2

Claims 22, 26, 29-32, 34-38, and claims 39-55 have been rejected under 35 U.S.C. § 112 ¶2 for allegedly failing to comply with the definiteness requirement. Specifically, the Examiner regards the terms "active substances", "inorganic support" and "plant extract" to be indefinite. Applicant respectfully traverses.

In this regard, the term "active substance" is well-defined and also enabled by the specification. Specifically, "active substance" appears in the specification at [0067], [0081], and [0083] and again at claim 30, as well as at claim 46. "Inorganic support" is defined at paragraph [0084] and includes examples of "inorganic support" for use in accordance with the present disclosure. Finally, the term "plant extract" is described in the specification and its interpretation is broader than an extract only from the *glaucium flavum* plant. The extract of the *glaucium flavum* is but one example of a plant extract for use in the present invention. In another example, the specification at [0041] discloses the appropriate plants for use, other than those of vegetable origin. As such, a skilled artisan formulating topical skin cosmetic and dermatopharmaceutical compositions containing plant extracts would understand the metes and bounds of the claim.

Therefore, Applicant respectfully submits that in view of the foregoing, the amended claims are as clear and definite as the subject matter will allow and certainly would not be indefinite to a person of ordinary skill in the art. Accordingly, withdrawal of the foregoing rejection is earnestly solicited.

35 U.S.C. § 102 (a)Su et al. (US Patent 6,313,134)

Claims 22-36, 47, and 49-55 have been rejected as allegedly failing to comply with 35 U.S.C. § 102 (a) over the Su reference. In view of the foregoing amendments, which cancelled claims 22-36 and 47-55, Applicant respectfully asserts that the rejection is no longer applicable to the claims as amended as the references do not teach the use of any of the four compounds now claimed in the claimed methods.

35 U.S.C. § 102 (b)Krell (WO 99/16441)

Claims 22-36, 47, 48, and 50-55 have been rejected as allegedly failing to comply with 35 U.S.C. § 102 (b) over the Krell reference. In view of the foregoing amendments, which cancelled claims 22-36 and 47-55, Applicant respectfully asserts that the rejection is no longer applicable to the claims as amended as the references do not teach the use of any of the four compounds now claimed in the claimed methods.

Maasbol (U.S. Patent 4,279,914)

Claims 22, 24-36, 47, and 50-55 have been rejected as allegedly failing to comply with 35 U.S.C. § 102 (b) over the Maasbol reference. In view of the foregoing amendments, which cancelled claims 22-36 and 47-55, Applicant respectfully asserts that this rejection is also no longer applicable to the claims as amended as the references do not teach the use of any of the four compounds now claimed in the claimed methods.

NEW GROUNDS OF REJECTION:

35 U.S.C. § 112 ¶1

Claims 22-54 have been rejected under 35 U.S.C. § 112 ¶1 for allegedly failing to comply with the written description requirement. The Examiner has rejected to the Applicant's use of the word "topical" as new matter. Applicants respectfully traverse.

The word "topical" is used at paragraph [0085]. In addition, claims 37 and 38 recite the topical use of the compounds of the instant application, which are applied to the skin of a person in need thereof. Accordingly, allowance of claims 37-46 is respectfully requested.

35 U.S.C. § 102 (a)Pauly (EP 1145709)

Claim 55 is rejected as allegedly failing to comply with 35 U.S.C. § 102 (a) in view of the Pauly reference. In view of the foregoing amendments, which cancelled claim 55, Applicant respectfully asserts that the rejection is no longer applicable to the claims as amended as the references do not teach the use of any of the four compounds now claimed in the claimed methods.

From the foregoing, further and favorable action in the form of a notice of allowance is believed to the next in order and such action is earnestly solicited.

Should the Examiner have any questions with regard to the foregoing, the Examiner should contact the undersigned at the Examiner's convenience at (908) 654-5000 in order to overcome any additional objections which he might have.

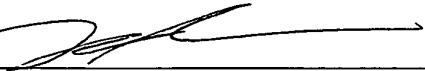
Application No.: 10/525,985

Docket No.: SEDERM 3.3-011

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: March 28, 2007

Respectfully submitted,

By 

Michael H. Teschner
Registration No.: 32,862
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

749881_1.DOC